

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO. 18-CR-2034
)	
Plaintiff,)	
)	
v.)	MOTION TO DISMISS
)	
RANDY CONSTANT,)	
)	
Defendants)	

The undersigned counsel to Randy Constant moves this Court to dismiss this action. In support of this motion, the undersigned states as follows:

1. On August 16, 2019 this Court sentenced Mr. Constant on a single count of wire fraud and imposed judgment. This Court entered judgment the following week on August 19, 2019 (ECF 39).

2. On the same day the judgment was entered, and before Mr. Constant's opportunity to seek direct review of that judgment had expired, Mr. Constant died. A copy of the death certificate is attached as Exhibit A.¹

3. Under long-standing federal authority, a criminal prosecution fully abates if the defendant dies before he has had an opportunity to challenge his conviction on direct review. *See, e.g., United States v. Bennett*, 765 F.3d 887, 893 (8th Cir. 2014). Such abatement should occur here.

¹ The attached death certificate is not a certified copy, however counsel can supplement the record with a certified copy and any other proof of Mr. Constant's demise if the fact of his death is controverted. Notably, Mr. Constant's death has received significant coverage in the media. *See, e.g.,* <https://www.thegazette.com/subject/news/public-safety/missouri-farmer-field-of-schemes-sentenced-to-10-years-last-week-died-by-suicide-monday-20190820>.

Wherefore, the undersigned counsel for Randy Constant prays this Court for an order vacating Mr. Constant's conviction and all consequences thereof and dismissing the Information (ECF 2).

THE WEINHARDT LAW FIRM

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ATTORNEYS FOR DEFENDANT

PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon the parties to this action by serving a copy upon each of the attorneys of record on August 30, 2019 by electronic filing.

Signature: /s/ Nissa Maddalone